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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,984	07/18/2003	Arthur F. Woodrow		3062

27189 7590 09/22/2004

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

EXAMINER

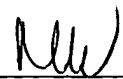
PHAN, HAU VAN

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/622,984	Applicant(s) WOODROW, ARTHUR F.	
	Examiner Hau V Phan	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 8, the phrase "an improved shopping cart for use at a store including a checkout stand having a surface at a height C for receiving shopping items" is not clear, whether the claim recites a shopping cart only or a combination of a shopping cart and a checkout stand.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-4, 6-11 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. (5,203,578) in view of Stein et al. (3,645,554).**

Davidson et al. in figures 1-9, disclose a shopping cart and container apparatus comprising a shopping cart frame (as shown in figure 1), which is supported by a

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plurality of rolling wheels (14) for rolling the shopping cart around a store. Davidson et al. also disclose a removable shopping cart basket (90) supported by the shopping cart frame. The shopping cart has a height, which is defined from a bottom of the basket to the ground. Davidson et al. fail to show a checkout stand having a height below the height from the basket to the ground.

Stein et al. in figure 1, teach a shopping cart comprising a basket (40) and a counter (T) of a checkout stand. The basket has a bottom (48), which is located above the counter of the checkout stand. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shopping cart of Davidson et al. with the shopping cart comprising a basket and a counter of a checkout stand. The basket has a bottom, which is located above the counter of the checkout stand as taught by Stein et al. in order to facilitate discharge of the basket's items directly onto the checkout stand.

Regarding claims 2 and 9, Davidson et al. disclose frame including a support surface to support the removable basket at a height H.

Regarding claims 3 and 10, Davidson et al. disclose the removable basket including a distal portion and the support surface of the frame includes a distal end. The distal portion of the removable basket overhangs the distal end of the support surface of the frame.

Regarding claims 4 and 11, Davidson et al. disclose one or more support structures in addition to the support surface.

5. The improved shopping cart of claim 2, further including a sliding

mechanism to facilitate sliding movement of the removable basket onto the surface of the checkout stand for receiving shopping items.

Regarding claims 6 and 13, Davidson et al. disclose a disengageable holding mechanism to hold the removable basket to the frame.

Regarding claims 7 and 14, Davidson et al. disclose a locking mechanism to lock the removable basket to the frame.

5. Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. (5,203,578) in view of Stein et al. (3,645,554) as applied to claims 1 and 8 above, and further in view of Swanson (3,924,709).

The combination of Davidson et al. and Stein et al. disclose shopping cart, but fail to show a sliding mechanism.

Swanson in figure 1-2, teaches an unloading assembly for shopping cart comprising movable means (38), which is provided adjacent a bottom wall (34) of a basket (16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the shopping cart of Davidson et al. in view of Stein et al. with the unloading assembly for shopping cart comprising movable means as taught by Swanson in order to facilitate discharge of the basket directly onto the checkout stand.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Thompson discloses cart-unloading means, Close discloses a

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check out system, Shaukis discloses a checking out system and Frederick discloses a conveyor to interfit with a loaded shopping cart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 703-308-2084. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christ Ellis can be reached on 703-308-2560. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau Phan
9/12/04

Hau V Phan
Examiner
Art Unit 3618

HAU PHAN
PATENT EXAMINER